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OCT 21 2003
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FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SEP 09 2003

JAMES R. LARSEN, CLERK
RICHLAND, WASHINGTON DEPUTY

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON**

STATE OF WASHINGTON,
DEPARTMENT OF ECOLOGY

Plaintiff,

v.

UNITED STATES
DEPARTMENT OF ENERGY,

Defendant.

No. CT-99-5076-EFS

~~PROPOSED~~ ORDER
GRANTING THIRD
AMENDMENT TO
CONSENT DECREE

Having considered the parties' Joint Motion For Third Amendment To Consent Decree, and having reviewed that proposed amendment, the Court finds that the proposed amendment is in the public interest and hereby GRANTS the parties' joint motion.

It is hereby ORDERED that the Consent Decree entered on September 29, 1999 is amended by adding the following underlined text on page 20 of that Consent Decree:

Completion of Interim Stabilization. DOE will complete interim stabilization of all 29 single-shell tanks listed above by September 30,

ORDER GRANTING THIRD
AMENDMENT TO CONSENT DECREE

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SEP 05 2003

CLERK, US DISTRICT COURT
RICHLAND, WASHINGTON

U. S. DEPARTMENT OF JUSTICE
c/o NOAA/Damage Assessment
7600 Sand Point Way, NE
Seattle, WA 98115-0070
(206) 526-6607

1 2004, except as provided for below with respect to tanks S-102 and
2 S-112.

3
4 In order to allow accelerated retrieval of waste in tanks S-102 and S-
5 112 in lieu of interim stabilization, DOE's obligation to complete
6 interim stabilization of those two tanks is held in abeyance, provided
7 that DOE completes S-102 Initial Retrieval Project Design (per
8 HFFACO milestone M-45-05B) and S-112 Saltcake Waste Retrieval
9 Technology Demonstration Design (per HFFACO milestone M-45-
10 03D) by 5/31/03; completes S-102 Initial Waste Retrieval Project
11 Construction (per HFFACO milestone M-45-05C) and S-112
12 Saltcake Waste Retrieval Technology Demonstration Construction
13 (per HFFACO milestone M-45-03E) by 3/31/04; and completes
14 Initial Waste Retrieval from Tank S-102 (Per HFFACO milestone M-
15 45-05A) and Full Scale Saltcake Waste Retrieval Technology
16 Demonstration at Tank S-112 (Per HFFACO milestone M-45-03C) by
17 3/31/05. DOE's obligation to complete interim stabilization of Tank
18 S-102 shall be satisfied upon completion of Initial Waste Retrieval
19 from Tank S-102. DOE's obligation to complete interim stabilization
20 of Tank S-112 shall be satisfied upon completion of Full Scale
21 Saltcake Waste Retrieval Technology Demonstration at Tank S-112.

22
23 In the event that DOE fails to complete one or more of the above
24 HFFACO milestones by the required date, Ecology may not seek
25 enforcement under this consent decree of the above HFFACO
26 milestones. Rather, at Ecology's option, the requirement for interim
27 stabilization of tanks S-102 and/or S-112 will no longer be in

1 abeyance, and DOE will be required by this Decree to complete
2 interim stabilization of the subject tank(s) within 18 months of
3 Ecology's written notification of its election. Moreover, Ecology
4 reserves any and all rights it may have to take enforcement or other
5 action independent of this Consent Decree, by virtue of a failure by
6 DOE to complete one or more of the above HFFACO milestones;
7 Energy reserves any and all defenses it may have in response to any
8 such Ecology action.

9
10 In addition, in order to allow DOE to accelerate retrieval of Tanks
11 S-102 and S-112 prior to completion of interim stabilization,
12 pumpable liquid remaining in those two tanks and liquid pumped to
13 date from those two tanks shall not be counted in the calculation of
14 the September 30, 2003 deadline in the following paragraph
15 regarding 'percentage of pumpable liquid remaining to be removed'
16 by that date.

17
18 IT IS SO ORDERED.

19
20 Dated this 9th day of September, 2003.

21
22
23 

24 Honorable Edward F. Shea
25 UNITED STATES DISTRICT
26 JUDGE